

House File 2416 - Introduced

HOUSE FILE 2416
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 642)

A BILL FOR

- 1 An Act relating to mutual-to-stock insurance company
- 2 conversions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **512.1 Declarations and purpose.**

2 1. It is declared that policyholders of a mutual company
3 have contractual rights to insurance coverage and certain
4 membership rights consisting principally of the right to
5 elect directors of a mutual company, the right to vote on
6 certain fundamental transactions undertaken by a mutual
7 company, and the right to share in surplus in the event of a
8 liquidation of a solvent mutual company. It is declared that
9 the membership rights of policyholders in a domestic mutual
10 company, or policyholders of a foreign mutual company who vote
11 to redomesticate to Iowa pursuant to section 512.5, are not
12 equivalent to an ownership interest in such mutual company.
13 Therefore, in connection with the mutual-to-stock conversion of
14 a mutual company, adequate compensation for the relinquishment
15 of such membership right shall be, at each policyholder's
16 election either of the following:

17 a. The exercise of a first priority subscription right to
18 purchase stock in the converting company or a holding company
19 for such converting company.

20 b. The right to receive cash in exchange for the redemption
21 of such subscription right by such mutual company.

22 2. The purpose of this chapter shall be the following:

23 a. To provide for the mutual-to-stock conversion of a
24 mutual company in a manner substantially consistent with the
25 manner in which a mutual savings institution converts from a
26 mutual-to-stock form under federal law and regulation.

27 b. To facilitate the recapitalization of the insurance
28 industry nationally by establishing a proven method of capital
29 formation for companies that elect to establish a domicile in
30 this state.

31 Sec. 2. NEW SECTION. **512.2 Short title.**

32 This chapter shall be known and may be cited as the "*Iowa*
33 *Insurance Company Mutual-to-Stock Conversion Act*".

34 Sec. 3. NEW SECTION. **512.3 Definitions.**

35 As used in this chapter:

- 1 1. "*Capital stock*" means common or preferred stock or any
2 hybrid security or other equity security issued by a converted
3 stock company or other company or entity pursuant to the
4 exercise of subscription rights granted pursuant to section
5 512.6, subsection 1, paragraph "c".
- 6 2. "*Commissioner*" means the commissioner of insurance
7 appointed pursuant to section 505.2.
- 8 3. "*Converted stock company*" means a stock company that
9 converted from a mutual company to a stock company under this
10 chapter or any successor to the stock company.
- 11 4. "*Division*" means the insurance division of the department
12 of commerce.
- 13 5. "*Domestic mutual company*" means a mutual insurance
14 company domiciled in this state and organized under chapter 508
15 or 515.
- 16 6. "*Eligible member*" means a member of a mutual company
17 whose policy is in force on the date the mutual company's
18 governing body adopts a plan of conversion or such earlier date
19 as the mutual company may establish with the consent of the
20 commissioner. A person insured under a group policy is not
21 an eligible member. A person whose policy becomes effective
22 after the governing body adopts the plan but before the plan's
23 effective date is not an eligible member but shall have those
24 rights established under section 512.11.
- 25 7. "*Foreign mutual company*" means a mutual insurance company
26 domiciled in a jurisdiction other than this state and organized
27 in a similar manner to a domestic mutual company organized
28 under chapter 508 or 515.
- 29 8. "*Mutual company*" means a mutual insurance company that
30 is seeking to convert to a stock company under this chapter
31 including a domestic mutual company and a foreign mutual
32 company that has applied to redomesticate to this state with an
33 intent to file an application to convert from a mutual company
34 to a stock company under this chapter.
- 35 9. a. "*Mutual holding company*" means any of the following

1 whose certificate of incorporation includes the provisions set
2 out in paragraph "b":

3 (1) A nonstock corporation resulting from a reorganization
4 of a mutual company under this chapter.

5 (2) A nonstock corporation resulting from a reorganization
6 of a mutual company under the laws of any other jurisdiction
7 that subsequently redomesticates in this state.

8 (3) A nonstock corporation incorporated in this state
9 surviving or resulting from a merger or consolidation with a
10 nonstock corporation that resulted from a reorganization of a
11 mutual company under the laws of any other jurisdiction.

12 b. The certificate of incorporation of a mutual holding
13 company shall include provisions setting forth all of the
14 following:

15 (1) That the mutual holding company is a mutual holding
16 company as defined in this chapter.

17 (2) That the mutual holding company shall hold not less
18 than a majority of the shares of voting stock of a converted
19 stock company or intermediate holding company, which in turn
20 holds, directly or indirectly, all of the voting stock of the
21 converted stock company.

22 (3) That the mutual holding company is not authorized to
23 issue any capital stock except pursuant to a conversion in
24 accordance with the provisions of this chapter.

25 (4) That the mutual holding company's members shall have
26 the rights specified in this chapter and in its certificate of
27 incorporation and bylaws.

28 (5) That the mutual holding company's assets shall be
29 subject to inclusion in the estate of the converted company in
30 any rehabilitation or insolvency proceedings initiated by the
31 commissioner.

32 10. "*Participating policy*" means a policy of a mutual
33 company that grants a holder the right to receive dividends if,
34 as, and when declared by the mutual company.

35 11. "*Person*" means an individual, a corporation, a limited

1 liability company, a partnership, an association, a joint stock
2 company, a trust, an unincorporated organization, a similar
3 entity, or a combination of the foregoing acting in concert.

4 12. "*Plan of conversion*" or "*plan*" means a plan adopted by a
5 mutual company's governing body to convert the mutual company
6 into a stock company under this chapter.

7 13. "*Policy*" means an insurance policy, including an annuity
8 contract.

9 14. "*Standby investor*" means a person that has agreed in
10 writing to purchase all or a portion of the capital stock to be
11 sold in a mutual-to-stock conversion that is not subscribed by
12 eligible members.

13 15. "*Stock company*" means a stock insurance company that
14 meets all of the current requirements for admission to do
15 business as a domestic company in this state under chapter 508
16 or 515.

17 16. "*Subscription right*" means the nontransferable right
18 to purchase, for a period of not less than twenty or more than
19 thirty-five days, the stock of the converted stock company,
20 its proposed stock holding company, or an unaffiliated stock
21 company, or other corporation or entity that will acquire the
22 converted stock company through the purchase of all the stock
23 of the converted stock company.

24 17. "*Voting member*" means a member who is an eligible member
25 and is also a member of the mutual company as of a date not more
26 than ninety days prior to the date of the meeting at which the
27 plan shall be voted upon by members.

28 Sec. 4. NEW SECTION. 512.4 Adoption of plan of conversion.

29 1. A plan of conversion shall not become effective unless
30 the mutual company seeking to convert to a stock company
31 shall have adopted, by the affirmative vote of not less than
32 two-thirds of its governing body and otherwise in accordance
33 with law, a plan consistent with the requirements of sections
34 512.6, 512.7, and 512.8 or of section 512.9. At any time
35 before approval of a plan by the commissioner, the mutual

1 company, by the affirmative vote of not less than a majority of
2 its governing body, may amend or withdraw the plan.

3 2. Before a mutual company's eligible members may vote on
4 approval of a plan, a mutual company whose governing body has
5 adopted a plan shall file all of the following documents with
6 the commissioner within ninety days after adoption of the plan
7 together with the specified application fee:

8 a. The plan, including the independent evaluation required
9 by section 512.6, subsection 4.

10 b. The form of notice required by subsection 7.

11 c. The form of proxy to be solicited from eligible members
12 pursuant to subsection 8.

13 d. The form of notice required by section 512.11 to persons
14 whose policies are issued after adoption of the plan but before
15 its effective date.

16 e. The proposed certificate of incorporation and bylaws of
17 the converted stock company.

18 f. The acquisition of control statement.

19 g. An application fee equal to the greater of ten thousand
20 dollars or an amount equal to one-tenth of one percent of
21 the estimated pro forma market value of the converted stock
22 company as determined in accordance with section 512.6,
23 subsection 4. If such value is expressed as a range of values,
24 the application fee shall be based upon the midpoint of the
25 range. For good cause shown, the commissioner may waive the
26 application fee in whole or in part, or permit a portion of
27 the application fee to be deferred until completion of the
28 conversion.

29 h. Such other information as the commissioner may request.

30 3. Upon filing of the foregoing documents with the
31 commissioner, the mutual company shall send to eligible members
32 a notice advising eligible members of the adoption and filing
33 of the plan, their ability to provide the commissioner and the
34 mutual company with comments on the plan within thirty days
35 of the date of such notice, and procedures for providing such

1 comments.

2 4. The commissioner shall immediately give written notice
3 to the mutual company of any decision and, in the event of
4 disapproval, a statement in detail of the reasons for the
5 decision. The commissioner shall approve the plan if the
6 commissioner finds all of the following:

7 a. The plan complies with this chapter.

8 b. The plan will not prejudice the interests of the eligible
9 members.

10 c. The plan's method of allocating subscription rights is
11 fair and equitable.

12 5. The commissioner may retain, at the mutual company's
13 expense, any qualified expert not otherwise a part of the
14 commissioner's staff, including counsel and financial advisors,
15 to assist in reviewing the plan and the independent evaluations
16 required under section 512.6, subsection 4.

17 6. The commissioner may order a hearing on whether the
18 terms of the plan comply with this chapter after giving written
19 notice by mail or publication to the mutual company and other
20 interested persons, all of whom have the right to appear at the
21 hearing.

22 7. All voting members shall be sent notice of the members'
23 meeting to vote on the plan. The notice shall briefly but
24 fairly describe the proposed plan, shall inform the voting
25 member of the voting member's right to vote upon the plan,
26 and shall be sent to each voting member's last known address,
27 as shown on the mutual company's records. If the meeting to
28 vote upon the plan is held during the mutual company's annual
29 meeting of policyholders, only a combined notice of the meeting
30 is required.

31 8. The plan shall be voted upon by voting members and shall
32 be adopted upon receiving the affirmative vote of at least
33 two-thirds of the votes cast at the meeting. Voting members
34 entitled to vote upon the proposed plan may vote in person or
35 by proxy. The number of votes each voting member may cast

1 shall be determined by the mutual company's bylaws. If the
2 bylaws are silent, each voting member may cast one vote.

3 9. The certificate of incorporation of the converted
4 stock company shall be considered at the meeting of the
5 voting members called for the purpose of adopting the plan and
6 shall require for adoption the affirmative vote of at least
7 two-thirds of the votes cast at the meeting.

8 10. Within thirty days after the voting members have
9 approved the plan in accordance with the requirements of this
10 section, the converted stock company shall file all of the
11 following documents with the commissioner:

12 a. The minutes of the meeting of the voting members at which
13 the plan was approved which shall include the record of total
14 votes cast and votes cast in favor of the plan.

15 b. The certificate of incorporation and bylaws of the
16 converted stock company.

17 Sec. 5. NEW SECTION. 512.5 Redomestication and conversion.

18 1. A foreign mutual company or foreign mutual holding
19 company that has filed an application for redomestication
20 may file an application for conversion under this chapter
21 promptly after completion of the redomestication or promptly
22 after approval of the redomestication by the members of the
23 foreign mutual company or foreign mutual holding company if
24 such a member vote is required under the laws of the state
25 of domicile of the foreign mutual company or foreign mutual
26 holding company. A redomestication application shall contain
27 such information as the commissioner may require. If the state
28 of domicile of the foreign mutual company or foreign mutual
29 holding company does not object to the redomestication and the
30 members of the foreign mutual company or foreign mutual holding
31 company, to the extent required, approve the redomestication,
32 the redomestication application of a foreign mutual company
33 or foreign mutual holding company shall not be denied solely
34 because the applicant has indicated its intention to avail
35 itself of the provisions of this chapter.

1 2. In addition to any requirements imposed by the existing
2 state of domicile with respect to approval of redomestication
3 by its voting members, a foreign mutual company that files an
4 application for redomestication under this section also shall
5 provide to its voting members a comparison of the method of
6 mutual-to-stock conversion in its existing state of domicile
7 and the method of mutual-to-stock conversion established by
8 this chapter.

9 3. Any order approving the redomestication of a foreign
10 mutual company or foreign mutual holding company shall contain
11 such terms and conditions as the commissioner requires.

12 4. A foreign mutual company or foreign mutual holding
13 company that redomesticates under this section, within ten
14 days of the date of redomestication, shall adopt resolutions
15 ratifying any previously adopted plan of conversion and
16 file such resolutions as an amendment to the application for
17 conversion. The commissioner may deem any failure to file such
18 ratifying resolutions as a withdrawal of the application for
19 conversion.

20 5. This chapter is not intended or shall not be deemed
21 to supersede or conflict with the requirements of the state
22 of domicile of any foreign mutual company or foreign mutual
23 holding company regarding approval of redomestication.

24 6. Except to the extent specifically provided by this
25 section, a plan of conversion shall be adopted as required by
26 section 512.4 and shall be consistent with the requirements of
27 sections 512.6, 512.7, and 512.8 or of section 512.9.

28 Sec. 6. NEW SECTION. 512.6 Required provisions of plan of
29 conversion.

30 1. All of the following provisions shall be included in a
31 plan of conversion:

32 a. The reasons for the proposed conversion.

33 b. The effect of conversion on existing policies, including
34 all of the following:

35 (1) A provision that all policies in force on the effective

1 date of conversion continue to remain in force under the terms
2 of the policies, except that the following rights, to the
3 extent the rights existed in the mutual company, shall be
4 extinguished on the effective date of the conversion:

5 (a) Any voting rights of the policyholders provided under
6 the policies.

7 (b) Except as provided under subparagraph (2), any right to
8 share in the surplus of the mutual company, unless such right
9 is expressly provided for under the provisions of the existing
10 policy.

11 (c) Any assessment provisions provided for under certain
12 types of policies.

13 (2) Except as provided in subparagraph (3), a provision
14 that holders of participating policies in effect on the date
15 of conversion continue to have a right to receive dividends as
16 provided in the participating policies, if any.

17 (3) Except for the mutual company's life policies,
18 participating guaranteed renewable accident and health
19 policies, and participating guaranteed renewable noncancelable
20 accident and health policies, a provision that upon the renewal
21 date of a participating policy, the converted stock company
22 may issue the member a nonparticipating policy as a substitute
23 for the participating policy. This subparagraph shall not be
24 construed to permit the substitution, during the term of a
25 policy, of a nonexperience-rated policy for an experience-rated
26 policy.

27 c. The grant of subscription rights to eligible members,
28 including both of the following:

29 (1) (a) A provision that each eligible member is to
30 receive, without payment, nontransferable subscription rights
31 to purchase the capital stock of the converted stock company
32 and that, in the aggregate, all eligible members shall have the
33 right, prior to the right of any other party, to purchase one
34 hundred percent of the capital stock of the converted stock
35 company, exclusive of any shares of capital stock required to

1 be sold or distributed to the holders of surplus notes, if any,
2 and capital stock purchased by the company's tax-qualified
3 employee stock benefit plan that is in excess of the total
4 price of the capital stock established under subsection 4, as
5 permitted by section 512.8, subsection 3. As an alternative to
6 subscription rights in the converted stock company, the plan
7 may provide that each eligible member is to receive, without
8 payment, nontransferable subscription rights to purchase a
9 portion of the capital stock of one of the following:

10 (i) A corporation or entity organized for the purpose of
11 purchasing and holding all the stock of the converted stock
12 company.

13 (ii) A stock company owned by the mutual company into which
14 the mutual company will be merged.

15 (iii) An unaffiliated stock company or other corporation or
16 entity that will purchase all the stock of the converted stock
17 company.

18 (b) For purposes of any plan, the following transfers of
19 subscription rights shall not be deemed an unpermitted transfer
20 under this chapter:

21 (i) Transfer of subscription rights from an individual to
22 such individual and such individual's spouse or children or to
23 a trust or other estate or wealth planning entity established
24 for the benefit of such individual, or such individual's spouse
25 or children.

26 (ii) Transfer of subscription rights from an individual to
27 such individual's individual or joint individual retirement
28 account, or other tax-qualified retirement plan.

29 (iii) Transfer of subscription rights from an entity to the
30 shareholders, partners, or members of such entity.

31 (iv) Transfer of subscription rights from the holder of such
32 rights to the mutual company, its proposed holding company,
33 or an unaffiliated stock company or other corporation or
34 entity that will purchase all the stock of the converted stock
35 company as provided in subparagraph division (a), subparagraph

1 subdivision (iii).

2 (2) A provision that the subscription rights shall be
3 allocated in whole shares among the eligible members using a
4 fair and equitable formula. The formula need not allocate
5 subscription rights to eligible members on a pro rata basis
6 based on premium payments or contributions to surplus, but
7 may take into account how the different classes of policies
8 of the eligible members contributed to the surplus of the
9 mutual company or any other factors that may be fair or
10 equitable. Allocation of subscription rights on a per capita
11 basis shall be entitled to a presumption that such method is
12 fair, subject to rebuttal of fairness by clear and convincing
13 evidence. In accordance with section 512.4, subsection 5, the
14 commissioner may retain an independent consultant to assist in
15 the determination that the allocation of subscription rights
16 is fair and equitable.

17 2. The plan shall provide a fair and equitable means
18 for allocating shares of capital stock in the event of an
19 oversubscription to shares by eligible members exercising
20 subscription rights received under subsection 1, paragraph "c".

21 3. The plan shall provide that any shares of capital stock
22 not subscribed to by eligible members exercising subscription
23 rights received under subsection 1, paragraph "c", shall be
24 sold in a public offering or to another corporation or entity
25 that is participating in the plan, as provided in subsection
26 1, paragraph "c", subparagraph (1). If the number of shares of
27 capital stock not subscribed by eligible members is so small in
28 number or other factors exist that do not warrant the time or
29 expense of a public offering, or warrant the participation of
30 standby investors to facilitate completion of the conversion,
31 the plan may provide for sale of the unsubscribed shares
32 through a private placement or other alternative method
33 approved by the commissioner that is fair and equitable to
34 eligible members.

35 4. The plan shall provide for the preparation of a valuation

1 by a qualified independent expert that establishes all of the
2 following:

3 *a.* The dollar amount of the capital stock for which
4 subscription rights must be granted pursuant to subsection 1,
5 paragraph "c", which shall be equal to the estimated pro forma
6 market value of the converted stock company. The qualified
7 independent expert may do all of the following:

8 (1) To the extent feasible, determine the pro forma market
9 value by reference to a peer group of stock companies and the
10 application of generally accepted valuation techniques.

11 (2) State the pro forma market value of the converted stock
12 company as a range of value.

13 (3) Establish the value as the value that is estimated to be
14 necessary to attract full subscription for the shares.

15 *b.* The dollar value of a subscription right based upon
16 the application of the Black-Scholes option pricing model or
17 another generally accepted option pricing model. In connection
18 with the determination of stock price volatility or other
19 valuation inputs used in option pricing models, the qualified
20 independent expert may assume that the attributes of the
21 converted stock company will be substantially similar to the
22 attributes of the stock of the peer companies used to determine
23 the estimated pro forma market value of the converted stock
24 company. Solely for purposes of determining the value of a
25 subscription right, the term of a subscription right shall be
26 deemed to be a minimum of ninety days.

27 5. The plan shall provide that each eligible member
28 shall be given the right to require the mutual company to
29 redeem such subscription rights, in lieu of the exercise of
30 subscription rights allocated to such eligible member, at a
31 price equal to the number of such subscription rights allocated
32 to such eligible member multiplied by the dollar value of a
33 subscription right as determined by the qualified independent
34 expert pursuant to subsection 4, paragraph "b". The obligation
35 of the mutual company to redeem such subscription rights shall

1 arise only upon the effective date of the plan as provided
2 in section 512.10. The redemption price payable to each
3 eligible member shall be paid to such eligible member within
4 thirty days of the effective date of the plan. Alternatively,
5 the converted stock company may, but shall not be required
6 to, offer each eligible member the option of receiving the
7 redemption amount in cash or having such redemption amount
8 credited against future premium payments. An eligible member
9 that does not exercise such eligible member's subscription
10 rights and also fails to affirmatively request redemption
11 of such subscription rights before the expiration of the
12 subscription offering, nevertheless shall be deemed to have
13 requested redemption of such eligible member's subscription
14 rights and shall receive the redemption amount in cash in the
15 manner otherwise provided in this subsection.

16 6. The plan shall set the purchase price per share of
17 capital stock equal to any reasonable amount. However, the
18 minimum subscription amount required of any eligible member
19 cannot exceed five hundred dollars, but the plan may provide
20 that the minimum number of shares any person may purchase
21 pursuant to the plan is twenty-five shares. The purchase price
22 per share at which capital stock is offered to persons who are
23 not eligible members may be greater than but not less than the
24 purchase price per share at which capital stock is offered to
25 eligible members.

26 7. The plan shall provide that any person or group of
27 persons acting in concert shall not acquire, in the public
28 offering or pursuant to the exercise of subscription rights,
29 more than five percent of the capital stock of the converted
30 stock company or the stock of another corporation that is
31 participating in the plan, as provided in subsection 1,
32 paragraph "c", subparagraph (1), subparagraph division (a),
33 subparagraph subdivision (iii), except with the approval of the
34 commissioner. This limitation does not apply to any entity
35 that is to purchase one hundred percent of the capital stock

1 of the converted stock company as part of the plan approved
2 by the commissioner or to any person that acts as a standby
3 investor of the capital stock of the converted stock company
4 for an amount equal to ten percent or more of the capital stock
5 of the converted stock company, provided that in each case such
6 purchase by a standby investor of ten percent or more of the
7 capital stock of the converted stock company is approved by the
8 commissioner in accordance with the law of this state following
9 the filing of an acquisition of control statement.

10 8. The plan shall provide that a director or officer or
11 person acting in concert with a director or officer of the
12 mutual company shall not acquire any capital stock of the
13 converted stock company or the stock of another corporation
14 that is participating in the conversion plan, as provided in
15 subsection 1, paragraph "c", subparagraph (1), subparagraph
16 division (a), subparagraph subdivision (iii), for three
17 years after the effective date of the plan, except through a
18 broker-dealer, without the permission of the commissioner.
19 This provision does not prohibit the directors and officers
20 from doing any of the following:

21 a. Making block purchases of one percent or more of the
22 outstanding common stock other than through a broker-dealer if
23 approved in writing by the division.

24 b. Exercising subscription rights received under the plan.

25 c. Participating in a stock benefit plan permitted by
26 section 512.8, subsection 3, or approved by shareholders
27 pursuant to section 512.13, subsection 2.

28 9. The plan shall provide that a director or officer shall
29 not sell stock purchased pursuant to this section, or section
30 512.8, subsection 1, within one year after the effective date
31 of the conversion, except that this section shall not be deemed
32 to restrict a transfer of stock by such director or officer if
33 the stock is the stock of a corporation that is participating
34 in the plan as provided in subsection 1, paragraph "c",
35 subparagraph (1), subparagraph division (a), subparagraph

1 subdivision (iii), and has a class of stock registered under
2 the Securities Exchange Act of 1934, as amended, 15 U.S.C. §78a
3 et seq., or if the transfer is to the spouse or minor children
4 of such director or officer, or to a trust or other estate or
5 wealth planning entity established for the benefit of such
6 director or officer, or the spouse or minor children of such
7 director or officer.

8 10. The plan shall provide that the rights of a holder of a
9 surplus note to participate in the conversion, if any, shall be
10 governed by the terms of the surplus note.

11 11. The plan shall provide that, without the prior approval
12 of the commissioner, a converted stock company, or any
13 corporation participating in the conversion plan pursuant to
14 subsection 1, paragraph "c", subparagraph (1), subparagraph
15 division (a), subparagraph subdivision (i) or (ii), shall not,
16 for a period of three years from the date of the completion of
17 the conversion, repurchase any of its capital stock from any
18 person, except that this restriction shall not apply to either
19 of the following:

20 a. A repurchase on a pro rata basis pursuant to an offer
21 made to all shareholders of the converted stock company, or any
22 corporation participating in the conversion plan pursuant to
23 subsection 1, paragraph "c", subparagraph (1), subparagraph
24 division (a), subparagraph subdivision (i) or (ii).

25 b. A purchase in the open market by a tax-qualified, or
26 nontax-qualified employee stock benefit plan in an amount
27 reasonable and appropriate to fund the plan.

28 Sec. 7. NEW SECTION. 512.7 Closed block of business for
29 participating life policies.

30 1. A plan that is adopted by a mutual company that is a
31 life insurance company that issues participating life policies
32 shall provide that participating life policies in force on
33 the effective date of the conversion shall be operated by the
34 converted stock company for dividend purposes as a closed block
35 of participating business, except that any and all classes of

1 group participating policies may be excluded from the closed
2 block.

3 2. The plan shall provide that sufficient assets of the
4 mutual company shall be allocated for the benefit of the
5 closed block of business so that the assets, together with the
6 revenue from the closed block of business, are sufficient to
7 support the closed block, including but not limited to the
8 payment of claims, expenses, taxes, and any dividends that are
9 provided for under the terms of the participating policies,
10 with appropriate adjustments in the dividends for experience
11 changes. The plan shall be accompanied by an opinion of a
12 qualified actuary, or an appointed actuary, who meets the
13 standards set forth in the insurance laws or regulations of
14 this state for the submission of actuarial opinions as to the
15 adequacy of reserves or assets. The opinion shall relate to
16 the adequacy of the assets allocated in support of the closed
17 block of business. The actuarial opinion shall be based on
18 methods of analysis deemed appropriate for those purposes by
19 the actuarial standards board.

20 3. The amount of assets allocated for the benefit of the
21 closed block shall be based upon the mutual life insurance
22 company's last annual statement, updated to the last day of
23 the quarter immediately preceding the effective date of the
24 conversion.

25 4. The converted stock company shall keep a separate
26 accounting for the closed block and shall make and include
27 in the annual statement to be filed with the commissioner
28 each year a separate statement showing the gains, losses, and
29 expenses properly attributable to the closed block.

30 5. The assets and liabilities allocated to the closed
31 block may be periodically reviewed by the commissioner or the
32 commissioner's designee. The converted stock company shall
33 bear the cost of any such review. If, as a result of such
34 review, the commissioner determines that the assets allocated
35 to the closed block are insufficient to support the remaining

1 policies in the closed block, the commissioner may issue
2 an order directing the converted stock company to allocate
3 additional assets to the closed block sufficient to support the
4 remaining policies in the closed block and the converted stock
5 company shall comply with such order within thirty days of the
6 date of the order. If, as a result of such review, or as a
7 result of a review initiated by the converted stock company and
8 accepted by the commissioner, assets allocated to the closed
9 block are in excess of the amount necessary to support the
10 remaining policies, upon application made to the commissioner
11 by the converted stock company, the commissioner may issue an
12 order permitting such excess assets in the closed block to
13 revert to the benefit of the converted stock company.

14 6. The commissioner may waive the requirement for
15 establishing a closed block of business if, in the
16 commissioner's discretion, it is in the best interests of
17 policyholders to do so. The commissioner may waive from
18 inclusion in the closed block of participating policies those
19 participating policies for which there is no expectation of
20 dividends being paid if, in the commissioner's discretion, it
21 is fair and equitable to do so.

22 Sec. 8. NEW SECTION. 512.8 Optional provisions of plan of
23 conversion.

24 1. The plan may provide that the directors, officers,
25 and employees of the mutual company shall receive, without
26 payment, nontransferable subscription rights to purchase
27 capital stock of the converted stock company or the stock of
28 another corporation that is participating in the conversion
29 plan, as provided in section 512.6, subsection 1, paragraph
30 "c", subparagraph (1), subparagraph division (a), subparagraph
31 subdivision (iii). These subscription rights shall be
32 allocated among the directors, officers, and employees by a
33 fair and equitable formula and shall be subordinate to the
34 subscription rights of eligible members. This chapter shall
35 not require the subordination of subscription rights received

1 by directors and officers in their capacity as eligible
2 members, if any.

3 2. The aggregate total number of shares that may be
4 purchased by directors and officers of the mutual company in
5 their capacity under subsection 1, and in their capacity as
6 eligible members under section 512.6, subsection 1, paragraph
7 "c", subparagraph (1), subparagraph division (a), subparagraph
8 subdivision (iii), shall not exceed thirty-five percent of the
9 total number of shares to be issued for a mutual company if
10 total assets of the mutual company are less than fifty million
11 dollars or twenty-five percent of the total number of shares
12 to be issued for a mutual company if total assets of the mutual
13 company are more than five hundred million dollars. For mutual
14 companies with total assets of or between fifty million dollars
15 and five hundred million dollars, the percentage of the total
16 number of shares that may be purchased shall be interpolated.

17 3. The plan may allocate to a tax-qualified employee benefit
18 plan nontransferable subscription rights to purchase up to ten
19 percent of the capital stock of the converted stock company or
20 the stock of another corporation that is participating in the
21 plan, as provided in section 512.6, subsection 1, paragraph
22 "c", subparagraph (1), subparagraph division (a), subparagraph
23 subdivision (iii). A tax-qualified employee benefit plan is
24 entitled to exercise subscription rights granted under this
25 subsection regardless of the total number of shares purchased
26 by other persons.

27 4. The plan may provide that the other classes of
28 subscribers approved by the commissioner shall receive, without
29 payment, nontransferable subscription rights to purchase
30 capital stock of the converted stock company or the stock of
31 another corporation that is participating in the conversion
32 plan, as provided in section 512.6, subsection 1, paragraph
33 "c", subparagraph (1), subparagraph division (a), subparagraph
34 subdivision (iii). Other classes of subscribers that may be
35 approved by the commissioner include, without limitation, any

1 of the following:

2 *a.* Members of the mutual company that became members after
3 the date fixed for establishing eligible members.

4 *b.* Brokers, agents, or other producers or their directors,
5 officers, or employees that represent the mutual company.

6 *c.* The shareholders of another corporation that is
7 participating in the plan, as provided in section 512.6,
8 subsection 1, paragraph "c", subparagraph (1), subparagraph
9 division (a), subparagraph subdivision (iii).

10 *d.* The shareholders of another corporation that is a party
11 to an acquisition, merger, consolidation, or other similar
12 transaction with the mutual company.

13 5. The plan may provide for the creation of a liquidation
14 account for the benefit of members in the event of voluntary
15 liquidation subsequent to conversion in an amount equal to
16 the surplus of the mutual company, exclusive of the principal
17 amount of any surplus note, on the last day of the quarter
18 immediately preceding the date of adoption of the plan.

19 Sec. 9. NEW SECTION. 512.9 **Alternative plan of conversion.**

20 1. The governing body may adopt a plan of conversion that
21 does not rely in whole or in part upon issuing nontransferable
22 subscription rights to members to purchase stock of the
23 converted stock company if the commissioner finds that the plan
24 does not prejudice the interests of the members, is fair and
25 equitable, and is not inconsistent with the purpose of this
26 chapter. Subject to a finding of the commissioner that an
27 alternative plan is fair and equitable and is not inconsistent
28 with the purpose of this chapter, an alternative plan may do
29 any of the following:

30 *a.* Include the merger of a domestic mutual company into a
31 domestic or foreign stock company.

32 *b.* Provide for issuing transferable or redeemable
33 subscription rights.

34 *c.* Provide for issuing stock, cash, policyholder credits, or
35 other consideration, or any combination of the foregoing, to

1 policyholders instead of subscription rights.

2 *d.* Provide for partial conversion of the mutual company
3 and formation of a mutual holding company in accordance with
4 subsection 2.

5 *e.* Set forth another plan containing any other provisions
6 approved by the commissioner.

7 2. The commissioner may approve a partial conversion
8 and formation of a mutual holding company provided that the
9 mutual company is not insolvent or in hazardous financial
10 condition according to information supplied in its most recent
11 annual or quarterly statement filed with the commissioner or
12 as determined by a financial examination performed by the
13 commissioner. The commissioner may retain, at the mutual
14 company's expense, any qualified expert, including counsel and
15 financial advisors, not otherwise a part of the commissioner's
16 staff, to assist in reviewing whether the plan may be approved
17 by the commissioner.

18 3. *a.* A mutual holding company may convert to stock form
19 under this chapter, and shall be subject to the provisions
20 of this chapter and to any other provisions of this title
21 applicable to insurance holding companies, except as otherwise
22 provided in this chapter. It is the policy of this chapter to
23 enable and facilitate such a conversion of a mutual holding
24 company to stock form, and this chapter shall be interpreted
25 accordingly.

26 *b.* Any mutual holding company may convert to a stock holding
27 company only in accordance with the provisions of this chapter.
28 Solely for purposes of establishing the process for and
29 enabling and facilitating any conversion of a mutual holding
30 company to a stock holding company, references in this chapter
31 to a mutual company shall be deemed to refer to a mutual
32 holding company and other provisions of this chapter shall be
33 interpreted accordingly.

34 *c.* Any stock issued by a subsidiary insurance company or
35 subsidiary holding company of a mutual holding company to

1 persons other than the parent mutual holding company shall be
2 exchanged for the stock issued by the parent mutual holding
3 company in connection with the conversion of the parent mutual
4 holding company to the parent stock holding company or any
5 corporation participating in the conversion of the mutual
6 holding company pursuant to section 512.6, subsection 1,
7 paragraph "c", subparagraph (1), subparagraph division (a).
8 The parent mutual holding company and the subsidiary insurance
9 company or subsidiary holding company must demonstrate to
10 the satisfaction of the commissioner that the basis for the
11 exchange is fair and reasonable.

12 d. If a subsidiary insurance company or subsidiary holding
13 company has issued shares to an entity other than the mutual
14 holding company, the conversion of the mutual holding company
15 to a stock holding company shall not be consummated unless a
16 majority of the shares issued to the entities other than the
17 mutual holding company vote in favor of the conversion. This
18 requirement applies in addition to any otherwise required
19 policyholder or shareholder votes.

20 Sec. 10. NEW SECTION. 512.10 **Effective date of plan of**
21 **conversion.**

22 A plan of conversion is effective when the commissioner has
23 approved the plan, the voting members have approved the plan
24 and adopted the certificate of incorporation of the converted
25 stock company, and the certificate of incorporation is filed in
26 the office of the secretary of state of this state.

27 Sec. 11. NEW SECTION. 512.11 **Rights of members whose**
28 **policies are issued after adoption of plan of conversion and**
29 **before effective date.**

30 1. All members whose policies are issued after the proposed
31 plan of conversion has been adopted by the governing body and
32 before the effective date of the plan shall be sent a written
33 notice regarding the plan upon issuance of such policy.

34 2. A member of a life or health insurance company entitled
35 to be sent the notice described in subsection 1 is entitled

1 to rescind the member's policy and receive a full refund
 2 of any amounts paid for the policy or contract within ten
 3 days after such member has received the notice. Except as
 4 provided in subsection 3, each member of a property or casualty
 5 insurance company entitled to receive the notice provided for
 6 in subsection 1 shall be advised of the member's right of
 7 cancellation and to a pro rata refund of unearned premiums.

8 3. A member of a life or health insurance company, or
 9 property or casualty insurance company, who has made or filed
 10 a claim under such member's insurance policy shall not be
 11 entitled to any right to receive any refund under subsection 2.
 12 A person who has exercised the rights provided by subsection
 13 2 shall not be entitled to make or file any claim under such
 14 person's insurance policy.

15 Sec. 12. NEW SECTION. 512.12 **Corporate existence.**

16 1. On the effective date of the conversion, the corporate
 17 existence of the mutual company continues in the converted
 18 stock company. On the effective date of the conversion, all
 19 the assets, rights, franchises, and interests of the mutual
 20 company or the mutual holding company in and to every species
 21 of property, real, personal, and mixed, and any accompanying
 22 things in action, are vested in the converted stock company
 23 without any deed or transfer and the converted stock company
 24 assumes all the obligations and liabilities of the mutual
 25 company or the mutual holding company.

26 2. Unless otherwise specified in the plan of conversion,
 27 the persons who are directors and officers of the mutual
 28 company or the mutual holding company on the effective date of
 29 the conversion shall serve as directors and officers of the
 30 converted stock company until new directors and officers of the
 31 converted stock company are elected pursuant to the certificate
 32 of incorporation and bylaws of the converted stock company.

33 Sec. 13. NEW SECTION. 512.13 **Conflict of interest.**

34 1. A director, officer, agent, or employee of the mutual
 35 company shall not receive any fee, commission, or other

1 valuable consideration, other than such person's usual regular
2 salary or compensation, for aiding, promoting, or assisting
3 in a conversion under this chapter, except as provided for in
4 the plan approved by the commissioner. This provision does
5 not prohibit the payment of reasonable fees and compensation
6 to attorneys, accountants, financial advisors, and actuaries
7 for services performed in the independent practice of their
8 professions, even if the attorney, accountant, financial
9 advisor, or actuary is also a director or officer of the mutual
10 company.

11 2. For a period of two years after the effective date of the
12 conversion, a converted stock company shall not implement any
13 nontax-qualified stock benefit plan unless the plan is approved
14 by a majority of votes cast at a duly-convened meeting of
15 shareholders held not less than six months after the effective
16 date of the conversion.

17 3. All the costs and expenses connected with a plan of
18 conversion shall be paid for or reimbursed by the mutual
19 company or the converted stock company. However, if the plan
20 provides for participation by another corporation or stock
21 company in the plan pursuant to section 512.6, subsection 1,
22 paragraph "c", subparagraph (1), subparagraph division (a), the
23 corporation or stock company may pay for or reimburse all or a
24 portion of the costs and expenses connected with the plan.

25 Sec. 14. NEW SECTION. 512.14 Failure to give notice.

26 If the mutual company complies substantially and in good
27 faith with the notice requirements of this chapter, the mutual
28 company's failure to send a member the required notice does not
29 impair the validity of any action taken under this chapter.

30 Sec. 15. NEW SECTION. 512.15 Limitation on actions.

31 Any action challenging the validity of or arising out of
32 acts taken or proposed to be taken under this chapter shall be
33 commenced no later than the latter of the following:

34 1. Sixty days after the approval of the plan by the
35 commissioner.

1 2. Thirty days after notice of the meeting of voting members
2 to approve the plan of conversion is first mailed or delivered
3 to voting members or posted on the mutual company's internet
4 site.

5 Sec. 16. NEW SECTION. 512.16 Mutual company insolvent or in
6 hazardous financial condition.

7 1. If a mutual company seeking to convert is insolvent or
8 is in hazardous financial condition according to information
9 supplied in its most recent annual or quarterly statement
10 filed with the division or as determined by a financial
11 examination performed by the division, the requirements of
12 this chapter, including notice to and policyholder approval of
13 the plan of conversion, may be waived at the discretion of the
14 commissioner, if requested by the mutual company. If a waiver
15 under this section is ordered by the commissioner, the mutual
16 company shall specify in its plan of conversion all of the
17 following:

18 a. The method and basis for the issuance of the converted
19 stock company's shares of its capital stock to an independent
20 party in connection with an investment by the independent party
21 in an amount sufficient to restore the converted stock company
22 to a sound financial condition.

23 b. That the conversion shall be accomplished without
24 granting subscription rights or other consideration to the
25 past, present, or future policyholders.

26 2. This section shall not alter or limit the authority of
27 the commissioner under any of the provisions of law, including
28 but not limited to receivership and liquidation provisions
29 applicable to insurance companies.

30 Sec. 17. NEW SECTION. 512.17 Rules.

31 The commissioner may adopt rules to administer and enforce
32 this chapter.

33 Sec. 18. NEW SECTION. 512.18 Laws applicable to converted
34 stock company.

35 1. A mutual company shall not be permitted to convert

1 under this chapter if, as a direct result of the conversion, a
2 person or any affiliate of the person acquires control of the
3 converted stock company, unless the person and the person's
4 affiliates comply with the provisions of this state's laws
5 regarding the acquisition of control of an insurance company.

6 2. Except as otherwise specified in this chapter, a stock
7 company converted under this chapter shall have and may
8 exercise all the rights and privileges and shall be subject
9 to all of the requirements and regulations imposed on stock
10 companies under this chapter and any other laws of this
11 state relating to the regulation and supervision of insurance
12 companies, but the stock company shall not exercise any rights
13 or privileges which other stock companies cannot exercise.

14 Sec. 19. NEW SECTION. 512.19 Commencement of business as a
15 stock company.

16 A mutual company shall not have the power to engage in the
17 business of insurance as a stock company until it complies with
18 all provisions of this chapter.

19 Sec. 20. NEW SECTION. 512.20 Amendment of policies.

20 A mutual company, by endorsement or rider approved by the
21 commissioner and sent to a policyholder, may simultaneously
22 with or at any time after the adoption of a plan of conversion
23 amend any outstanding insurance policy for the purpose of
24 extinguishing the right of the policyholder to share in the
25 surplus of the mutual company. However, this amendment shall
26 be null and void if the plan of conversion is not submitted
27 to the commissioner or, if submitted, is disapproved by
28 the commissioner or, if approved by the commissioner, is
29 not approved by the eligible members on or before the first
30 anniversary of its approval by the commissioner.

31 Sec. 21. NEW SECTION. 512.21 Prohibition on acquisitions
32 of control.

33 Except as otherwise specifically provided in section 512.6,
34 from the date a plan of conversion is adopted by the governing
35 body of a mutual company until three years after the effective

1 date of the plan, a person shall not directly or indirectly
2 offer to acquire, make any announcement to acquire or acquire
3 in any manner, including making a filing with the division for
4 such acquisition under a statute or rule of this state, the
5 beneficial ownership of ten percent or more of a class of a
6 voting security of the converted stock company or of a person
7 which controls the voting securities of the converted stock
8 company, unless the converted stock company or a person who
9 controls the voting securities of the converted stock company
10 consents to such acquisition and such acquisition is otherwise
11 approved by the commissioner.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill enacts new Code chapter 512 which provides an
16 additional procedure for mutual insurance companies domiciled
17 in this state and organized under Code chapter 508 (life
18 insurance companies) or Code chapter 515 (insurance other
19 than life), as well as certain foreign mutual insurance
20 companies, to convert from a mutual company to a stock company.
21 The procedure does not replace current Code chapter 508C
22 (conversion from mutual company to stock company) or current
23 Code chapter 515G (mutual insurance company conversions).

24 The bill requires the mutual company wishing to convert
25 to a stock company to submit a plan of conversion to its
26 governing body for adoption, to the commissioner of insurance
27 for approval, and to the mutual company's voting members for
28 approval. Following final approval the converted stock company
29 must file its certificate of incorporation and bylaws with the
30 commissioner.

31 The bill allows a foreign mutual company or foreign
32 mutual holding company to redomesticate to Iowa and to file
33 an application for conversion to a stock company. Such a
34 company's plan of conversion must be adopted and approved
35 consistent with the provisions of the new Code chapter

1 applicable to domestic companies.

2 The required contents of a plan of conversion are set
3 out in the bill and include provisions relating to policy
4 continuation, voting rights, subscription rights to purchase
5 the capital stock of the converted stock company or of related
6 entities, valuation of capital stock by a qualified independent
7 expert, redemption rights, and restrictions on the purchase,
8 sale, and repurchase of capital stock by directors, officers,
9 and others. The bill contains specific provisions regarding a
10 closed block of business for participating life policies.

11 The commissioner is authorized to approve alternative plans
12 of conversion that allow for partial conversions, mutual
13 holding companies, mergers, and variable subscription rights.

14 The bill also includes provisions relating to rights of
15 members whose policies were issued after adoption of the plan
16 of conversion, conflicts of interest, limitations on actions
17 challenging a conversion, conversions involving insolvent
18 companies, amendment of outstanding policies, and acquisitions
19 of control following conversion.